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6 *Counsel for U.S. Bank National Association,*
7 *as Trustee, successor-in-interest to Bank of*
8 *America, National Association, as Trustee,*
9 *successor by merger to LaSalle Bank*
10 *National Association, as Trustee for the*
11 *registered holders of Bear Stearns*
12 *Commercial Mortgage Securities, Inc.,*
13 *Commercial Mortgage Pass-Through*
14 *Certificates, Series 2005-PWR9, by and*
15 *through its authorized special servicer, C-*
16 *III Asset Management LLC, a Delaware*
17 *limited liability company*

13 UNITED STATES BANKRUPTCY COURT
14 FOR THE DISTRICT OF ARIZONA

15 In re:

16 TUCSON ONE, LLC,
17 Debtor.

Chapter 11 Proceedings

Case No. 4:17-bk-11219-BMW

**RESPONSE AND RESERVATION OF
RIGHTS REGARDING DEBTOR'S
MOTION FOR VALUATION
HEARING**

21 U.S. Bank National Association, as Trustee, successor-in-interest to Bank of
22 America, National Association, as Trustee, successor by merger to LaSalle Bank National
23 Association, as Trustee for the registered holders of Bear Stearns Commercial Mortgage
24 Securities, Inc., Commercial Mortgage Pass-Through Certificates, Series 2005-PWR9, by
25 and through its authorized special servicer, C-III Asset Management LLC, a Delaware
26 limited liability company, in its capacity as special servicer (the "Lender"), by and
27 through undersigned counsel, hereby submits this response to the *Motion for Valuation*
28 *Hearing* (the "Motion") [Dkt. No. 60] filed by Tucson One, LLC (the "Debtor").

1 **I. Background**

2 Debtor has requested that the Court set a hearing to determine the value of the
3 commercial property located at 3700 E. Ft. Lowell Road, Tucson, Arizona, 85716 (the
4 “Property). The Property is the sole asset of the Debtor’s bankruptcy estate. This is a
5 single asset real estate case subject to section 362(d)(3) of the Bankruptcy Code.
6 Lender’s Motion for relief from the automatic stay is pending before this Court (the “Stay
7 Relief Motion”) [Dkt. No. 49]. The Stay Relief Motion seeks relief under §§ 362(d)(1),
8 (2) and (3) of the Bankruptcy Code. The Property is radically under-secured and is
9 completely encumbered by a deed of trust securing repayment of a note, which evidences
10 a loan made to Debtor in the original principal amount of \$2,469,500.00. Lender is the
11 current owner, holder, and beneficiary of and under the loan, the note, and the deed of
12 trust. Debtor has no equity in the Property, has failed to provide Lender with adequate
13 protection, and has failed to submit a plan of reorganization with a reasonable likelihood
14 of confirmation within a reasonable time.

15 **II. Lender’s Response and Reservation of Rights**

16 Subject to its full reservation of rights with respect to the Stay Relief Motion,
17 Lender does not object to the scheduling of a valuation hearing by the Court in this case.
18 However, Lender respectfully submits that no valuation hearing should be scheduled until
19 after the Court considers and rules upon the Stay Relief Motion. If the Stay Relief
20 Motion is granted, the request for a valuation hearing will be moot.

21 If a valuation hearing is scheduled, Lender intends to dispute any evidence Debtor
22 presents at any hearing regarding the valuation of the Property. To that end, Lender
23 affirmatively states that its lack of objection to the scheduling of a valuation hearing
24 should not be construed as a waiver of any argument regarding the value of the Property,
25 the method by which value is established, or the admissibility or weight of any appraisal
26 or declaration Debtor provides in support of valuation.

27 Lender hereby reserves its rights to object to any appraisal or declaration put forth
28 by the Debtor to support its position on the Property’s value. Lender further reserves its

1 right to present evidence and legal argument in support of its position on the Property's
2 value at any valuation hearing scheduled by the Court, including expert evidence in the
3 form of independent appraisals and rebuttal evidence related to any valuation evidence
4 presented by the Debtor.

5 **III. Conclusion**

6 For the reasons stated above, Lender does not object to the scheduling of a
7 valuation hearing after the Court considers and rules upon the pending Stay Relief
8 Motion, and Lender requests that any such hearing be scheduled allowing sufficient time
9 for Lender to prepare and present its evidence regarding the Property's value. Lender
10 reserves its rights to object to the Debtor's evidence at any hearing and further reserves
11 its rights to present direct and rebuttal evidence regarding the Property's value.

12
13 RESPECTFULLY SUBMITTED this 13th day of June, 2018.

14 BALLARD SPAHR LLP

15 By: /s/ Michael A. DiGiacomo

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liability company

25 COPY of the foregoing electronically filed
26 and transmitted via CM/ECF this same date
27 to all parties requesting notice in this case.

28 By: /s/ Caroline Wright